

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Crl. Revision No. 1171 of 2007

Date of decision : August 27, 2007

Parmod Kumar Jain

..... Petitioner

versus

M/s Kewal Krishan Om Parkash,
Commission Agent, Kotkapura

..... Respondent

Present : Mr. Amit Rawal, Advocate
for the petitioner with petitioner
in person.

Respondent in person.

S.S. SARON, J.

This revision petition has been filed by the petitioner against the order dated 14.07.2007 passed by the learned Additional Sessions Judge, Faridkot whereby the appeal of the petitioner against his conviction for the offence under Section 138 of the Negotiable Instruments Act, 1881 ("Act" - for short) recorded by the learned Additional Chief Judicial Magistrate, Faridkot has been dismissed.

M/s Kewal Krishan Om Parkash, Commission Agent, Kotkapura filed a complaint against the petitioner alleging commission of offence under Section 138 read with Section 142 of the

Act. It was alleged that the petitioner issued a cheque dated 04.07.2000 for a sum of Rs.3 lacs which was returned back by the bankers of the petitioner by recording "Insufficient Funds". After considering the evidence and material on record, the learned Additional Chief Judicial Magistrate, Faridkot vide order dated 01.12.2006 convicted the appellant. He was sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for two months for the offence under Section 138 of the Act. The petitioner aggrieved against the order dated 01.12.2006 passed by the learned Additional Chief Judicial Magistrate, Faridkot, filed an appeal before the learned Additional Sessions Judge, Faridkot. The learned Additional Sessions Judge, Faridkot after considering the material and evidence on record dismissed the same which is assailed in the present petition. At the time of motion hearing on 19.07.2007, Sh. Amit Rawal, learned counsel appearing for the petitioner had submitted that the petitioner was ill-advised in the case and he was ready to pay the amount due. He had brought two drafts of Rs.49,500/- each payable to the respondent, which he tendered in Court. It was submitted that the petitioner shall pay the balance amount if reasonable time was given. In view of the said statement, notice of motion was issued and sentence of imprisonment imposed on the petitioner was ordered to be suspended subject to his furnishing personal bond and surety to the satisfaction of Additional Chief Judicial Magistrate, Faridkot. When the matter was taken up

today, the complainant Sudesh Kumar son of Kewal Krishan has made a statement on oath that he has received a sum of Rs.4,50,000/- by way of seven bank drafts in favour of the Firm M/s Kewal Krishan Om Parkash. The same has been accepted by him in Court today. It is also stated that he has no objection to the acceptance of the revision petition and quashing of the orders passed by the Courts below. The complainant has been identified by the petitioner who has been identified by his counsel. The statement is on record.

Learned counsel appearing for the petitioner has submitted that in view of the statement of the petitioner, the revision petition be allowed.

After giving my thoughtful consideration to the contentions of the learned counsel for the petitioner and hearing the complainant who is present in person, it may be noticed that Section 147 of the Act provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973 every offence punishable under the Act shall be compoundable. The complainant has appeared in the Court and made a deposition on oath that he has accepted a sum of Rs.4,50,000/- by way of seven bank drafts in favour of complainant-Firm M/s Kewal Krishan Om Parkash. It is stated that he has no objection to the acceptance of the revision petition and quashing of the orders passed by the Courts below. The complainant is identified by the petitioner who in turn has been identified by his counsel.

In the circumstances that the parties have compounded the matter, it would be just and expedient to allow the revision petition and set aside the orders passed by the Courts below.

Accordingly, the revision petition is accepted and the orders passed by the Courts below are set aside.

(S.S. SARON)
JUDGE

August 27, 2007
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